ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author:	Leslie	Analyst:	LuAnna Hass	Bill Number:	ACA 12
Related Bills:	See Legislative History	Telephone:	845-7478	Introduced Date:	February 21, 2003
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: California Fiscal Responsibility And Taxpayer Protection Act

SUMMARY

This measure would amend the California Constitution to remove the requirement that a portion of the excess revenues received by the State in a fiscal year must be returned by revising taxes or fees.

PURPOSE OF THE BILL

It appears the purpose of this bill is to create a system to protect taxpayers and increase fiscal responsibility by limiting tax and fee increases and allowing the Legislature to determine the means by which excess revenues are returned to taxpayers.

EFFECTIVE/OPERATIVE DATE

This measure would become effective and operative the day following approval by the voters in the next general election, which would be in November 2004, if such approval occurs.

POSITION

Pending.

ANALYSIS

STATE LAW

Under the California Constitution, the voters of the State have the authority to approve or reject any amendments to the State Constitution. Private citizens or groups can initiate amendments or the Legislature may place an amendment on the ballot if the proposal passes each House by a two-thirds vote. The Legislature proposes amendments to the California Constitution by passing a Senate Constitutional Amendment (SCA) or an Assembly Constitutional Amendment (ACA). Neither an SCA nor an ACA require the approval of the Governor. After the Legislature approves an SCA or ACA by two-thirds vote in the Senate and the Assembly, it is assigned a proposition number and placed on a statewide ballot for the voters to approve or reject the proposed change. Any amendment to the Constitution proposed by the Legislature and adopted by a majority vote of the people takes effect the day after its adoption.

Board Position:			Department Director	Date
______ S	______ NA	______ NP	Gerald H. Goldberg	03/27/03
______ SA	______ O	______ NAR		
______ N	______ OUA	__X__ PENDING		

Currently, specific provisions of Article XIIIB of the California Constitution:

- Prohibit a government entity's annual appropriation from exceeding its annual limit, which is adjusted annually for the cost of living and population changes.
- Provide that:
  - 50% of the excess revenues that are received by the State in a fiscal year, which is in excess of the amount that may be appropriated by the State for that same fiscal year, are transferred to the State School Fund.
  - The remaining 50% of the excess revenues must be returned by the State by revising tax rates or fee schedules within the next two subsequent fiscal years.

THIS BILL

This measure would amend the California Constitution to:

1. Limit the total increase in state revenues through the imposition of new or increased taxes, new or increased fees, or any other means of raising revenue during a calendar year. The increase may not exceed the previous year's percentage increase in the Consumer Price Index or comparable data for California.
2. Provide that an increase in General Fund spending during a calendar year may not exceed the previous calendar year's spending by more than the percentage increase in California personal income, as defined by this bill, from the previous year.
3. Remove the requirement that 50% of the excess revenues received by the State in a fiscal year must be returned by the State by revising tax rates or fee schedules within the next two subsequent fiscal years.
4. Provide that 50% of the excess revenues received by the State in a fiscal year would either be 1) returned to California taxpayers by a means determined by the Legislature, or 2) placed in reserve for appropriation by the Legislature in future years.

In addition, this measure would provide that the Legislature may provide an exemption from or suspension of numbers 1, 2, or 4 above without submitting the measure to the voters of California. Instead, the Legislature could pass a bill in each house by rollcall vote entered into the journal, three-fourths of the membership concurring.

IMPLEMENTATION CONSIDERATIONS

As written, this measure would not have an immediate impact on the department. Any impact would depend on the means prescribed by the Legislature to return excess revenues to California taxpayers and whether the Franchise Tax Board would be required to be involved in that process.

LEGISLATIVE HISTORY

SCA 3 (McClintock, 2003/2004) would require Franchise Tax Board (FTB) and the State Controller to issue rebates of a portion of the revenues received by the state in excess of the amount appropriated during the fiscal year. This bill is at the Senate Desk.

ACA 6 (Campbell, 2003/2004) would require the FTB to issue rebates of excess revenues to personal income taxpayers. This bill is at the Assembly Desk.

ACA 22 (Campbell, 2001/2002) would have required FTB and the State Controller to issue rebates of a portion of the revenues received by the state in excess of the amount appropriated by the State during the fiscal year. This bill was held at the Assembly Desk.

SCA 16 (McClintock, et al., 2001/2002) would have required FTB and the State Controller to issue rebates of any revenues received by the state in excess of the amount appropriated by the State during the fiscal year. This bill failed passage with the Senate Revenue and Taxation Committee.

A version of AB 2869 (Machado, Stats. 2000, Ch. 977) prior to enactment would have authorized a sales and use tax rebate to qualified taxpayers of $50 or a variable amount based on the taxpayer's filing status and federal adjusted gross income. This provision was removed from the bill.

AB 2609 (Stats. 1987, Ch. 915) and SB 47 (Stats. 1987, Ch. 908) authorized a tax rebate of excess funds for the 1986 taxable year. Qualified taxpayers were allowed a tax rebate of 15% of the tax imposed by the income tax law, as defined, with specified minimum dollar limits and maximum dollar limits. The rebate was calculated and administered by FTB. The Controller was required to send rebate checks to taxpayers by January 15, 1988.

OTHER STATES' INFORMATION

A review of the state laws and Constitutions of *Florida, Massachusetts, Michigan,* and *Minnesota,* found the following:

- *Florida* and *Minnesota* require excess state revenues to be refunded to the taxpayers.
- *Massachusetts* allows a credit, called the "excess revenue credit," toward taxpayers' personal income tax liabilities.
- *Michigan* requires excess revenue to be refunded on a pro rata basis that is based on the liability reported on the Michigan income tax and single business tax returns.

A review of *New York* and *Illinois* state laws and Constitutions did not produce any information regarding specific procedures for refunding or otherwise dealing with excess revenues. The laws of these states were reviewed because of similarities to California tax laws.

FISCAL IMPACT

This measure would not impact the department's programs and operations.

ECONOMIC IMPACT

This measure would not impact personal income tax and corporate tax revenues.

LEGISLATIVE STAFF CONTACT

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